

Senate File 481

S-3300

1 Amend Senate File 481 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <Section 1. NEW SECTION. 825.1 Definitions.

5 1. "*Immigration detainer request*" means a federal government
6 request to a local entity to maintain temporary custody of
7 an alien. "*Immigration detainer request*" includes verbal and
8 written requests, including a United States department of
9 homeland security form I-247 or a similar or successor form.

10 2. "*Immigration law*" means a law of this state or a federal
11 law relating to aliens, immigrants, or immigration, including
12 but not limited to the federal Immigration and Nationality Act,
13 8 U.S.C. §1101 et seq.

14 3. "*Lawful detention*" means the detention of a person by a
15 local entity for the investigation of a public offense. "*Lawful*
16 *detention*" excludes a detention if the sole reason for the
17 detention is that a person is a victim of or witness to a public
18 offense or is reporting a public offense.

19 4. "*Local entity*" means the governing body of a city or
20 county. "*Local entity*" includes an officer or employee of a
21 local entity or a division, department, or other body that is
22 part of a local entity, including but not limited to a sheriff,
23 police department, city attorney, or county attorney.

24 5. "*Policy*" includes a formal, written rule, policy,
25 procedure, regulation, order, ordinance, motion, resolution, or
26 amendment and an informal, unwritten policy.

27 6. "*Public offense*" excludes a moving traffic violation
28 under chapter 321.

29 Sec. 2. NEW SECTION. 825.2 Law enforcement agency duties —
30 immigration detainer requests.

31 A law enforcement agency in this state that has custody of
32 a person subject to an immigration detainer request issued by
33 United States immigration and customs enforcement shall fully
34 comply with any instruction made in the detainer request and in
35 any other legal document provided by a federal agency.

1 Sec. 3. NEW SECTION. 825.3 Completion of sentence in
2 federal custody.

3 1. The court, in a criminal proceeding in this state in
4 which the sentence requires a defendant who is the subject
5 of an immigration detainer request to be confined in a
6 correctional facility, shall issue an order at the time of
7 sentencing requiring the correctional facility in which the
8 defendant is to be confined and all appropriate government
9 officers to require the defendant to be transferred to serve in
10 federal custody the final portion of the defendant's sentence,
11 not to exceed a period of seven days, if a facility or officer
12 determines that the change in the place of confinement will
13 facilitate the seamless transfer of the defendant into federal
14 custody. The court in a criminal proceeding in this state
15 shall retain jurisdiction to issue such an order at a later
16 date if the court receives notice from a federal agency that a
17 defendant was the subject of an immigration detainer request at
18 the time of sentencing. The court shall issue such an order as
19 soon as practicable after receiving such notice.

20 2. In the absence of an order issued under this section,
21 a facility or officer acting under exigent circumstances may
22 perform such a transfer after making a determination that the
23 change in the place of confinement will facilitate the seamless
24 transfer of the defendant into federal custody.

25 3. A defendant shall be transferred pursuant to this section
26 only if appropriate officers of the federal government consent
27 to the transfer of a defendant into federal custody under the
28 circumstances described in this section.

29 Sec. 4. NEW SECTION. 825.4 Restriction on enforcement of
30 immigration law prohibited.

31 1. A local entity shall not adopt or enforce a policy or
32 take any other action under which the local entity prohibits or
33 discourages the enforcement of immigration laws.

34 2. A local entity shall not prohibit or discourage a person
35 who is a law enforcement officer, corrections officer, county

1 attorney, city attorney, or other official who is employed by
2 or otherwise under the direction or control of the local entity
3 from doing any of the following:

4 *a.* Inquiring about the immigration status of a person under
5 a lawful detention or under arrest.

6 *b.* Doing any of the following with respect to information
7 relating to the immigration status, lawful or unlawful, of any
8 person under a lawful detention or under arrest, including
9 information regarding the person's place of birth:

10 (1) Sending the information to or requesting or receiving
11 the information from United States citizenship and immigration
12 services, United States immigration and customs enforcement, or
13 another relevant federal agency.

14 (2) Maintaining the information.

15 (3) Exchanging the information with another local entity or
16 a federal or state governmental entity.

17 *c.* Assisting or cooperating with a federal immigration
18 officer as reasonable or necessary, including providing
19 enforcement assistance.

20 *d.* Permitting a federal immigration officer to enter and
21 conduct enforcement activities at a jail or other detention
22 facility to enforce a federal immigration law.

23 Sec. 5. NEW SECTION. 825.5 Written policies.

24 No later than January 1, 2018, each state or local law
25 enforcement agency subject to this chapter shall do all of the
26 following:

27 1. Formalize in writing any unwritten, informal policies
28 relating to the enforcement of immigration laws.

29 2. Update the agency's policies to be consistent with this
30 chapter, to require each officer or other employee of the law
31 enforcement agency to fully comply with this chapter, and to
32 prohibit an officer or other employee of the law enforcement
33 agency from preventing law enforcement agency personnel from
34 fully complying with this chapter.

35 Sec. 6. NEW SECTION. 825.6 Discrimination prohibited.

1 A local entity or a person employed by or otherwise under
2 the direction or control of a local entity shall not consider
3 race, skin color, language spoken, or national origin while
4 enforcing immigration laws except to the extent permitted by
5 the Constitution of the United States or the Constitution of
6 the State of Iowa.

7 Sec. 7. NEW SECTION. 825.7 Victim of or witness to a crime
8 — limitation on collection of information.

9 A local entity or a person employed by or otherwise under
10 the direction or control of a local entity shall not ask for
11 or collect any information from a victim of or witness to an
12 alleged public offense or from a person reporting an alleged
13 public offense, including the victim's, witness's, or person's
14 national origin, that is not pertinent to the investigation of
15 the alleged public offense.

16 Sec. 8. NEW SECTION. 825.8 Complaints — notification —
17 civil action.

18 1. Any person, including a federal agency, may file a
19 complaint with the attorney general or a county attorney
20 alleging that a local entity has violated or is violating
21 this chapter if the person offers evidence to support such an
22 allegation. The person shall include with the complaint any
23 evidence the person has in support of the complaint.

24 2. A local entity for which the attorney general or county
25 attorney has received a complaint pursuant to this section
26 shall comply with any document requests, including a request
27 for supporting documents, from the attorney general or county
28 attorney relating to the complaint.

29 3. A complaint filed pursuant to subsection 1 shall not
30 be valid unless the attorney general or county attorney
31 determines that a violation of this chapter by a local entity
32 was intentional.

33 4. If the attorney general or county attorney determines
34 that a complaint filed pursuant to this section against a local
35 entity is valid, the attorney general or county attorney, not

1 later than ten days after the date of such a determination,
2 shall provide written notification to the local entity by
3 certified mail, with return receipt requested, stating all of
4 the following:

5 *a.* A complaint pursuant to this section has been filed and
6 the grounds for the complaint.

7 *b.* The attorney general or county attorney has determined
8 that the complaint is valid.

9 *c.* The attorney general or county attorney is authorized to
10 file a civil action in district court pursuant to subsection
11 6 to enjoin a violation of this chapter no later than forty
12 days after the date on which the notification is received
13 if the local entity does not come into compliance with the
14 requirements of this chapter.

15 *d.* The local entity and any entity that is under the
16 jurisdiction of the local entity will be denied state funds
17 pursuant to section 825.9 for the state fiscal year following
18 the year in which a final judicial determination in a civil
19 action brought under this section is made.

20 5. No later than thirty days after the date on which a
21 local entity receives written notification under subsection 4,
22 the local entity shall provide the attorney general or county
23 attorney with all of the following:

24 *a.* Copies of all of the local entity's written policies
25 relating to immigration enforcement actions.

26 *b.* A copy of each immigration detainer request received by
27 the local entity from a federal agency.

28 *c.* A copy of each response sent by the local entity to an
29 immigration detainer request described by paragraph "b".

30 *d.* A description of all actions the local entity has taken
31 or will take to correct any violations of this chapter.

32 *e.* If applicable, any evidence that would refute the
33 allegations made in the complaint.

34 6. No later than forty days after the date on which the
35 notification pursuant to subsection 4 is received, the attorney

1 general or county attorney shall file a civil action in
2 district court to enjoin any ongoing violation of this chapter
3 by a local entity.

4 **Sec. 9. NEW SECTION. 825.9 Denial of state funds.**

5 1. Notwithstanding any other provision of law to the
6 contrary, a local entity, including any entity under the
7 jurisdiction of the local entity, shall be ineligible to
8 receive any state funds if the local entity intentionally
9 violates this chapter.

10 2. State funds shall be denied to a local entity pursuant
11 to subsection 1 by all state agencies for each state fiscal
12 year that begins after the date on which a final judicial
13 determination that the local entity has intentionally violated
14 this chapter is made in a civil action brought pursuant to
15 section 825.8, subsection 6. State funds shall continue
16 to be denied until eligibility to receive state funds is
17 reinstated under section 825.10. However, any state funds for
18 the provision of wearable body protective gear used for law
19 enforcement purposes shall not be denied under this section.

20 3. The department of management shall adopt rules pursuant
21 to chapter 17A to implement this section and section 825.10
22 uniformly across state agencies from which state funds are
23 distributed to local entities.

24 **Sec. 10. NEW SECTION. 825.10 Reinstatement of eligibility**
25 **to receive state funds.**

26 1. Except as provided by subsection 5, no earlier than
27 twelve months after the date of a final judicial determination
28 that a local entity has intentionally violated the provisions
29 of this chapter, the local entity may petition the district
30 court that heard the civil action brought pursuant to section
31 825.8, subsection 6, to seek a declaratory judgment that the
32 local entity is in full compliance with this chapter.

33 2. A local entity that petitions the court as described by
34 subsection 1 shall comply with any document requests, including
35 a request for supporting documents, from the attorney general

1 or county attorney relating to the action.

2 3. If the court issues a declaratory judgment declaring that
3 the local entity is in full compliance with this chapter, the
4 local entity's eligibility to receive state funds is reinstated
5 beginning on the first day of the month following the date on
6 which the declaratory judgment is issued.

7 4. A local entity shall not petition the court as described
8 in subsection 1 more than twice in one twelve-month period.

9 5. A local entity may petition the court as described in
10 subsection 1 before the date provided in subsection 1 if the
11 person who was the director or other chief officer of the
12 local entity at the time of the violation of this chapter is
13 subsequently removed from or otherwise leaves office.

14 6. A party shall not be entitled to recover any attorney
15 fees in a civil action described by subsection 1.

16 Sec. 11. NEW SECTION. **825.11 Attorney general database.**

17 The attorney general shall develop and maintain a searchable
18 database listing each local entity for which a final judicial
19 determination described in section 825.9, subsection 2, has
20 been made. The attorney general shall post the database on the
21 attorney general's internet site.

22 Sec. 12. **APPLICABILITY.** This Act applies to the release of
23 a person from custody in this state on or after the effective
24 date of this Act.

25 Sec. 13. **IMPLEMENTATION OF ACT.** Section 25B.2, subsection
26 3, shall not apply to this Act.>

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